



DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35902]

Elizabethtown Industrial Railroad LLC—Operation Exemption—Rail Holdings, Inc.

Elizabethtown Industrial Railroad LLC (EZR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate a 1.0-mile line of railroad, known as the Conewago Industrial Track, between the connection with the Norfolk Southern Railway Company's (NS) main line at milepost 1.0 in Conewago, and milepost 0.0 in West Donegal Township, in Lancaster County Pa., (the Line), pursuant to an operating agreement with Rail Holdings, Inc. (RH), the owner of the Line.¹

This transaction is related to a concurrently filed verified notice of exemption in Eric Bickleman & Robert Lowe—Continuance in Control Exemption—Elizabethtown Industrial Railroad, Docket No. FD 35903, in which Eric Bickleman and Robert Lowe seek Board approval to continue in control of Elizabethtown Industrial Railroad LLC under 49 CFR 1180.2(d)(2), upon EZR's becoming a Class III rail carrier.

EZR states that it will provide common carrier freight service over the Line pursuant to an operating agreement it is negotiating with RH.² EZR states that the

¹ According to EZR, RH purchased the Line from Conewago Industrial Track, Inc. (Conewago) in September 2014. RH and Conewago, both are noncarriers.

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operating agreement between EZR and RH does not contain any provision or agreement which would limit future interchange of traffic with any third-party connecting carrier. EZR also states that it intends to interchange traffic with NS at Conewago.

EZR certifies that its projected annual revenues as a result of this transaction will not result in the creation a Class I or Class II rail carrier and will not exceed \$5 million.

The transaction may be consummated on or after March 20, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 13, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35902, must be filed with Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John K. Fiorilla, Capehart & Scatchard, P.A., 8000 Midlantic Drive, Suite 300S, Mount Laurel, NJ 08054.

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² Once EZR enters into the agreement, it should submit the agreement into the record in this proceeding in order to provide sufficient information and documentation for the Board to determine whether the owner-lessor can exert undue control over the lessee-carrier's operations. See Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, Inc., FD 35296, slip op at 3 (STB served Aug. 31, 2010); N. Shore R.R.-Acquis & Operation Exemption—PPL Susquehanna, LLC, FD 35377, slip op. at 3 (STB served Apr. 26, 2011).

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Decided: March 3, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

BILLING CODE FR-4915-01-P

[FR Doc. 2015-05212 Filed: 3/5/2015 08:45 am; Publication Date: 3/6/2015]

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